

appeal allowed, without costs, and plaintiff granted leave to remit the damages.

Johnston v. Smith, 22/93.

9. Action against magistrate—Notice.]

—An action against a magistrate for false arrest was dismissed for want of action given, under R.S. 5th Series, c. 101, s. 19. On appeal the Court was equally divided.

Held, per Henry, J., Graham, E.J., concurring, dismissing appeal, that a magistrate is entitled to notice of action under the section, wherever he has acted in good faith, and not merely colorably in the execution of his office, no matter how great the error of law into which he may have fallen.

Per Ritchie, J., McDonald, C.J., concurring, that though such was the sense of the older cases, now, if a magistrate acts entirely without jurisdiction, he is not entitled to notice.

Semble, also, the fact that he was misled by a barrister is not a mitigation of his error.

Mott v. Milne, 31/372.

ACTIONS, LIMITATION OF.

See LIMITATION OF ACTIONS.

ACQUIESCENCE.

See ESTOPPEL, LACHES, WAIVER.

ADJOURNMENT.

1. *Sine die*.]—A magistrate who adjourns a trial without naming a day, loses jurisdiction, and a conviction made thereafter is void.

Queen v. Morse, 22/298.

Queen v. Gough, 22/516.

2. *Postponement*.]—A summons for a violation of the Canada Temperance Act was returnable at 10 o'clock on a certain day. At that hour, no one appearing, the justices adjourned until 2 o'clock on

the same day. Held, they had not lost jurisdiction.

The King v. Wipper, 34/202.

3. *Criminal term*.]—After adjournment of a criminal sittings, the presiding Judge may not make an order, as of date the last day of the sittings.

See CRIMINAL LAW, 24.

4. *Restitution of goods levied*.]—An applicant entitled at the date of application, but who loses his right owing to a new trial taking place during adjournment thereof, does not lose his right to costs of his application.

See EXECUTION, 11.

ADMINISTRATOR.

See EXECUTORS AND ADMINISTRATORS.

ADVANCES.

See INSURANCE, 19.

ADVERSE POSSESSION.

See POSSESSION.

AFFIDAVIT.

See also BILL OF SALE.

1. *Defective jurat*.]—Per Graham, E.J., "the county need not be inserted in the jurat, if by reference to any other portion of the affidavit it appears that the place mentioned in the jurat was comprised in the county in respect to which the Commissioner has jurisdiction," but this does not apply to affidavits under the Bills of Sale Act.

Phinney v. Morse, 25/509.

2. *Irregular heading*.]—On a motion to set aside an execution, the plaintiff objected to the reading of the defendant's affidavits on the ground that they were entitled "In the County Court" only, and